

**REPORT OF THE AUDIT OF THE
MENIFEE COUNTY
CLERK**

**For The Year Ended
December 31, 2009**



**CRIT LUALLEN
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EXECUTIVE SUMMARY

AUDIT EXAMINATION OF THE MENIFEE COUNTY CLERK

**For The Year Ended
December 31, 2009**

The Auditor of Public Accounts has completed the Menifee County Clerk's audit for the year ended December 31, 2009. Based upon the audit work performed, the financial statement presents fairly in all material respects, the revenues, expenditures, and excess fees in conformity with the regulatory basis of accounting.

Financial Condition:

Excess fees decreased by \$29,371 from the prior year, resulting in excess fees of \$41,615 as of December 31, 2009. Revenues decreased by \$131,820 from the prior year and expenditures decreased by \$102,449.

Report Comments:

- The County Clerk's Office Lacks Adequate Segregation Of Duties
- The County Clerk Had A \$340 Disallowed Expenditure

Deposits:

The County Clerk's deposits were insured and collateralized by bank securities.

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CRIT LUALLEN
AUDITOR OF PUBLIC ACCOUNTS

The Honorable Hershell Sexton, Menifee County Judge/Executive
The Honorable Jo Ann Spencer, Menifee County Clerk
Members of the Menifee County Fiscal Court

Independent Auditor's Report

We have audited the accompanying statement of revenues, expenditures, and excess fees - regulatory basis of the County Clerk of Menifee County, Kentucky, for the year ended December 31, 2009. This financial statement is the responsibility of the County Clerk. Our responsibility is to express an opinion on this financial statement based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America, the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States, and the Audit Guide for County Fee Officials issued by the Auditor of Public Accounts, Commonwealth of Kentucky. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As described in Note 1, the County Clerk's office prepares the financial statement on a regulatory basis of accounting that demonstrates compliance with the laws of Kentucky, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America.

In our opinion, the financial statement referred to above presents fairly, in all material respects, the revenues, expenditures, and excess fees of the County Clerk for the year ended December 31, 2009, in conformity with the regulatory basis of accounting described in Note 1.

In accordance with Government Auditing Standards, we have also issued our report dated September 30, 2010 on our consideration of the Menifee County Clerk's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with Government Auditing Standards and should be considered in assessing the results of our audit.



The Honorable Hershell Sexton, Menifee County Judge/Executive
The Honorable Jo Ann Spencer, Menifee County Clerk
Members of the Menifee County Fiscal Court

Based on the results of our audit, we have presented the accompanying comments and recommendations, included herein, which discusses the following report comments:

- The County Clerk's Office Lacks Adequate Segregation Of Duties
- The County Clerk Had A \$340 Disallowed Expenditure

This report is intended solely for the information and use of the County Clerk and Fiscal Court of Menifee County, Kentucky, and the Commonwealth of Kentucky and is not intended to be and should not be used by anyone other than these specified parties.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Crit Luallen", with a long horizontal flourish extending to the right.

Crit Luallen
Auditor of Public Accounts

September 30, 2010

MENIFEE COUNTY
JO ANN SPENCER, COUNTY CLERK
STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS

For The Year Ended December 31, 2009

Revenues

Revenue Supplement	\$	57,376
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State Fees For Services		194
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Fiscal Court		10,894
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Licenses and Taxes:

Motor Vehicle-

Licenses and Transfers	\$	248,025
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Usage Tax		154,338
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Tangible Personal Property Tax		377,341
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Other-

Marriage Licenses		2,201
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Deed Transfer Tax		7,269
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Delinquent Tax		167,069
		956,243

Fees Collected for Services:

Recordings-

Deeds, Easements, and Contracts		4,633
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Real Estate Mortgages		7,524
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Chattel Mortgages and Financing Statements		16,665
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Powers of Attorney		510
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All Other Recordings		16,986
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Charges for Other Services-

Copywork		1,520
		47,838

Other:

Miscellaneous		1,411
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Candidate Fees/Voter Registration/Election		524
		1,935

Interest Earned		202
		202

Total Revenues		1,074,682
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The accompanying notes are an integral part of this financial statement.

MENIFEE COUNTY
JO ANN SPENCER, COUNTY CLERK
STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS
For The Year Ended December 31, 2009
(Continued)

Expenditures

Payments to State:

Motor Vehicle-

Licenses and Transfers \$ 176,757

Usage Tax 149,707

Tangible Personal Property Tax 140,384

Licenses, Taxes, and Fees-

Marriage Licenses 837

Delinquent Tax 18,174

Legal Process Tax 5,210

Affordable Housing Trust 9,156 \$ 500,225

Payments to Fiscal Court:

Tangible Personal Property Tax 38,277

Delinquent Tax 15,008

Deed Transfer Tax 6,905 60,190

Payments to Other Districts:

Tangible Personal Property Tax 183,785

Delinquent Tax 81,509 265,294

Payments to Sheriff 13,135

Payments to County Attorney 22,950

Operating Expenditures:

Personnel Services-

Deputies' Salaries 59,400

Contracted Services-

Advertising 976

Printing and Binding 970

Microfilming 4,770

Materials and Supplies-

Office Supplies 3,264

The accompanying notes are an integral part of this financial statement.

MENIFEE COUNTY
JO ANN SPENCER, COUNTY CLERK
STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS
For The Year Ended December 31, 2009
(Continued)

Expenditures (Continued)

Operating Expenditures: (Continued)

Other Charges-

Conventions and Travel	\$	2,632	
Dues		720	
Postage		2,911	
Refunds		1,921	
Tax Bill Prep		1,494	
Miscellaneous		<u>4,030</u>	\$ 83,088

Debt Service:

Lease Purchases	<u>12,600</u>
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Total Expenditures	<u>\$ 957,482</u>
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Less: Disallowed Expenditure

IRS Penalty	<u>(340)</u>
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Total Allowable Expenditures	<u>957,142</u>
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Net Revenues	117,540
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Less: Statutory Maximum	<u>68,797</u>
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Excess Fees	48,743
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Less: Expense Allowance	3,600
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Training Incentive Benefit	<u>3,528</u>	<u>7,128</u>
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Excess Fees Due County for 2009		41,615
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Payments to Fiscal Court - February 12, 2010	41,232	
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March 3, 2010	<u>43</u>	<u>41,275</u>
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Balance Due Fiscal Court at Completion of Audit	<u>\$</u>	<u>340</u>
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The accompanying notes are an integral part of this financial statement.

MENIFEE COUNTY
NOTES TO FINANCIAL STATEMENT

December 31, 2009

Note 1. Summary of Significant Accounting Policies

A. Fund Accounting

A fee official uses a fund to report on the results of operations. A fund is a separate accounting entity with a self-balancing set of accounts. Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain government functions or activities.

A fee official uses a fund for fees to account for activities for which the government desires periodic determination of the excess of revenues over expenditures to facilitate management control, accountability, and compliance with laws.

B. Basis of Accounting

KRS 64.820 directs the fiscal court to collect any amount, including excess fees, due from the County Clerk as determined by the audit. KRS 64.152 requires the County Clerk to settle excess fees with the fiscal court by March 15 each year.

The financial statement has been prepared on a regulatory basis of accounting, which demonstrates compliance with the laws of Kentucky and is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America. Under this regulatory basis of accounting, revenues and expenditures are generally recognized when cash is received or disbursed with the exception of accrual of the following items (not all-inclusive), at December 31 that may be included in the excess fees calculation:

- Interest receivable
- Collection on accounts due from others for 2009 services
- Reimbursements for 2009 activities
- Payments due other governmental entities for December tax and fee collections and payroll
- Payments due vendors for goods or services provided in 2009

The measurement focus of a fee official is upon excess fees. Remittance of excess fees is due to the County Treasurer in the subsequent year.

C. Cash and Investments

At the direction of the fiscal court, KRS 66.480 authorizes the County Clerk's office to invest in the following, including but not limited to, obligations of the United States and of its agencies and instrumentalities, obligations and contracts for future delivery or purchase of obligations backed by the full faith and credit of the United States, obligations of any corporation of the United States government, bonds or certificates of indebtedness of this state, and certificates of deposit issued by or other interest-bearing accounts of any bank or savings and loan institution which are insured by the Federal Deposit Insurance Corporation (FDIC) or which are collateralized, to the extent uninsured, by any obligation permitted by KRS 41.240(4).

MENIFEE COUNTY
NOTES TO FINANCIAL STATEMENT
December 31, 2009
(Continued)

Note 2. Employee Retirement System

The county official and employees have elected to participate in the County Employees Retirement System (CERS), pursuant to KRS 78.530 administered by the Board of Trustees of the Kentucky Retirement Systems. This is a cost sharing, multiple employer defined benefit pension plan, which covers all eligible full-time employees and provides for retirement, disability and death benefits to plan members. Benefit contributions and provisions are established by statute.

Nonhazardous covered employees are required to contribute 5 percent of their salary to the plan. Nonhazardous covered employees who begin participation on or after September 1, 2008 are required to contribute 6 percent of their salary to the plan. The county's contribution rate for nonhazardous employees was 13.50 percent for the first six months and 16.16 percent for the last six months.

Benefits fully vest on reaching five years of service for nonhazardous employees. Aspects of benefits for nonhazardous employees include retirement after 27 years of service or age 65. Nonhazardous employees who begin participation on or after September 1, 2008 must meet the rule of 87 (members age plus years of service credit must equal 87, and the member must be a minimum of 57 years of age) or the member is age 65, with a minimum of 60 months service credit.

Historical trend information showing the CERS' progress in accumulating sufficient assets to pay benefits when due is presented in the Kentucky Retirement Systems' annual financial report. This report may be obtained by writing the Kentucky Retirement Systems, 1260 Louisville Road, Frankfort, KY 40601-6124, or by telephone at (502) 564-4646.

Note 3. Deposits

The Menifee County Clerk maintained deposits of public funds with depository institutions insured by the Federal Deposit Insurance Corporation (FDIC) as required by KRS 66.480(1)(d). According to KRS 41.240(4), the depository institution should pledge or provide sufficient collateral which, together with FDIC insurance, equals or exceeds the amount of public funds on deposit at all times. In order to be valid against the FDIC in the event of failure or insolvency of the depository institution, this pledge or provision of collateral should be evidenced by an agreement between the County Clerk and the depository institution, signed by both parties, that is (a) in writing, (b) approved by the board of directors of the depository institution or its loan committee, which approval must be reflected in the minutes of the board or committee, and (c) an official record of the depository institution.

Custodial Credit Risk - Deposits

Custodial credit risk is the risk that in the event of a depository institution failure, the County Clerk's deposits may not be returned. The Menifee County Clerk does not have a deposit policy for custodial credit risk but rather follows the requirements of KRS 41.240(4). As of December 31, 2009, all deposits were covered by FDIC insurance or a properly executed collateral security agreement.

MENIFEE COUNTY
NOTES TO FINANCIAL STATEMENT
December 31, 2009
(Continued)

Note 4. Lease

The Office of the County Clerk was committed to a lease agreement with Software Management for computer equipment and software. The agreement required an annual payment of \$9,600 to be completed on August 21, 2010 and renewing automatically for additional one-year terms thereafter. The total balance of the agreement was \$0 as of December 31, 2009.

REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND
ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF THE FINANCIAL
STATEMENT PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS



CRIT LUALLEN
AUDITOR OF PUBLIC ACCOUNTS

The Honorable Hershell Sexton, Menifee County Judge/Executive
The Honorable Jo Ann Spencer, Menifee County Clerk
Members of the Menifee County Fiscal Court

Report On Internal Control Over Financial Reporting And
On Compliance And Other Matters Based On An Audit Of Financial
Statements Performed In Accordance With Government Auditing Standards

We have audited the statement of revenues, expenditures, and excess fees - regulatory basis of the Menifee County Clerk for the year ended December 31, 2009, and have issued our report thereon dated September 30, 2010. The County Clerk's financial statement is prepared in accordance with a basis of accounting other than generally accepted accounting principles. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered the Menifee County Clerk's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statement, but not for the purpose of expressing an opinion on the effectiveness of the County Clerk's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the County Clerk's internal control over financial reporting.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over financial reporting that might be deficiencies, significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above. However, we identified a certain deficiency in internal control over financial reporting, described in the accompanying comments and recommendations that we consider to be a significant deficiency in internal control over financial reporting.

- The County Clerk's Office Lacks Adequate Segregation Of Duties



Report On Internal Control Over Financial Reporting And
On Compliance And Other Matters Based On An Audit Of The Financial
Statement Performed In Accordance With Government Auditing Standards
(Continued)

Internal Control Over Financial Reporting (Continued)

A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the Menifee County Clerk's financial statement for the year ended December 31, 2009, is free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed an instance of noncompliance or other matters that is required to be reported under Government Auditing Standards and which is described in the accompanying comments and recommendations.

- The County Clerk Had A \$340 Disallowed Expenditure

The Menifee County Clerk's responses to the findings identified in our audit are described in the accompanying comments and recommendations. We did not audit the Clerk's responses and, accordingly, we express no opinion on them.

This report is intended solely for the information and use of management, the Menifee County Fiscal Court, others within the entity, and the Department for Local Government, and is not intended to be and should not be used by anyone other than these specified parties.

Respectfully submitted,



Crit Luallen
Auditor of Public Accounts

September 30, 2010

COMMENTS AND RECOMMENDATIONS

MENIFEE COUNTY
JO ANN SPENCER, COUNTY CLERK
COMMENTS AND RECOMMENDATIONS

For The Year Ended December 31, 2009

STATE LAWS AND REGULATIONS:

The County Clerk Had A \$340 Disallowed Expenditure

The County Clerk had a disallowed expenditure in the amount of \$340. This expenditure was disallowed because the County Clerk paid an IRS penalty. In **Funk vs. Milliken 317 S.W.2d 499 (KY 1958)**, Kentucky's highest court reaffirmed the rule that county fee officials' expenditures of public funds will be allowable only if they are necessary, adequately documented, reasonable in amount, beneficial to the public, and not personal expenses. Penalties are not a necessary expenditure of the office and should not be paid out of the County Clerk's account. We recommend the County Clerk reimburse the fee account from personal funds in the amount of \$340, and in the future, ensure tax withholding deposits are made in a timely manner to avoid penalties.

County Clerk's Response: Ok.

INTERNAL CONTROL - SIGNIFICANT DEFICIENCY:

The County Clerk's Office Lacks Adequate Segregation Of Duties

All employees of the County Clerk's office collect receipts. Also, the County Clerk or deputy clerk prepares the daily checkout sheets, bank deposits, and posts to the receipts ledger. The County Clerk or deputy prepares and records disbursements and the County Clerk reconciles the bank account. Good internal controls dictate that the collection of receipts, recording of transactions, and bank reconciling duties be segregated. Implementing the following procedures could strengthen controls:

- An employee independent of cashier functions is appointed to open mail and list receipts.
- The employee responsible for bookkeeping functions, bank reconciliations, and comparing mail receipts to deposit slips should not have access to cash.
- The employee authorized to sign checks should be independent of report preparation, approval of payment, and purchasing and receiving.

County Clerk's Response: Due to lack of funds, I can't afford to hire anyone to prevent this.

Auditor's Reply: The County Clerk can implement the above procedures by segregating duties between existing employees or by implementing other independent checks and balances.

